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ABSTRACT

In 1996, Kansas launched the nation's most sweeping attempt to radically transform the child welfare system by implementing a privatized form of managed care. Four years later, the child welfare system shows signs of instability and seems very much in transition. This report examines the current status of the child welfare system in Kansas and makes recommendations for future directions. The report is presented in five sections. Section 1 summarizes the findings and recommendations of Kansas Action for Children. Section 2 describes the system's success in meeting performance standards for safety, permanence, and well-being of children and families; assesses how well the system is meeting goals of system change; presents a cost-benefit analysis that demonstrates how public dollars have been used and to what effect; and assesses the stability and legitimacy of the child welfare system. Section 3 discusses the consensus on the need for change in the child welfare system, Kansas' choice to privatize and use some tools of managed care, and systemic problems in the system, including the lack of an inclusive planning process, hurried implementation, and role confusion. Section 4 examines the abandonment in 2000 of managed care in favor of a per-child, per-month payment system. Section 5 presents recommendations for Kansas' child welfare system related to needed data on system improvement and children's well-being, stemming the flow of children into the system, examining contracting practices, and creating fiscal incentives. Contains 18 endnotes. (KB)

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ED 451 956

# THE KANSAS CHILD WELFARE SYSTEM

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# OUR WORK

Kansas Action for Children is a private, not-for profit, citizen-based corporation founded in 1979. We work on behalf of all children to ensure that their physical and emotional needs are met, and that they become healthy and contributing adults:

- We *paint the picture* of Kansas children by gathering and publicizing information on child well-being through the Kansas Children's Report Card, the Kansas KIDS COUNT Data Book and special reports.

- We *advance alternatives* by developing state policy that is family- and child-friendly. Over the years, programs related to early childhood development, teen pregnancy, preventative health care, citizen's review boards and services to children in troubled families have stemmed from our work.

- We *build the base* of citizen advocacy for children by working with citizens and organizations across the state. We believe that hundreds of citizens speaking out for children can help create communities that support families and children.

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February 2001

# THE KANSAS CHILD WELFARE SYSTEM:

# WHERE ARE WE? WHERE SHOULD WE BE GOING?

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# THE KANSAS CHILD WELFARE SYSTEM:

## WHERE ARE WE? WHERE SHOULD WE BE GOING?

## INTRODUCTION AND SUMMARY

In 1996, Kansas launched the nation's most sweeping attempt to radically transform the child welfare system by implementing a privatized form of managed care. Four years later, state officials can justifiably point to significant improvements in child welfare. At the same time, the child welfare system shows signs of instability and seems very much in transition:

- Significant improvements include more investigations and substantiations of abuse and neglect cases, statewide availability of family preservation services and a much better rate of adoption dissolutions than the rate for the nation.
- The signs of instability include serious financial problems for at least one of the large contracting agencies, difficulty retaining experienced foster parents and a growing number of children waiting adoption.
- Evidence of a system still in transition include abandoning the one characteristic of the 1996 "revolution" that had drawn the attention of experts around the country: the effort to apply the tools of managed care to child welfare.

Instability and transition do not necessarily mean that the broad reform effort has failed or that the system is on the verge of collapse. But a crisis of confidence in the current system clearly exists, and it seems as urgent as ever that policy-makers and concerned citizens assess where we are and agree on where we want to go.

In this report, we pose four questions about child welfare in Kansas:

- How are we doing?
- How did we get here?
- Where do we seem to be going?
- Where should we be going?

This report does not have all the answers, and some of the answers we propose may not be right. But we believe KAC as well as others have an obligation to ask questions, suggest answers and prompt a dialogue among all the groups and individuals who touch and are touched by the child welfare system. This is our contribution to that dialogue.

### RECOMMENDATIONS

Kansas Action for Children believes that to create a successful child welfare system we need to:

- Increase accountability by requiring

more information about how contractors are using public funds and about the well-being of children in the system (see p.20).

■ Stem the flow of children into foster care and adoption by reforming and improving the front end of the system (p. 21).

■ Study and test the potential benefits of contracting with one lead agency for all services in a given geographic area (p. 22).

■ Study and test the creation of fiscal incentives that reward contractors for good performance (p. 23).

## FINDINGS

Our recommendations are based on the findings in this report, including:

■ The child welfare system's success in meeting measurable performance standards has been mixed. Safety standards have been met consistently, and permanence standards have consistently not been met (see p. 5).

■ Very little information is available about the specific well-being of children in the foster care and adoption systems, including their mental and physical health and their educational progress (p. 5).

■ The system often fails to provide families and children the support and prevention services that can keep children with their families. In fact, families most at risk of having a child in foster care have not been referred to the privatized family preservation services because of Kansas Department of Social and Rehabilitation Services (SRS) staff concerns about the ability of those services to meet the needs of high-risk families (p. 7).

■ The most serious gap in the continuum of family support and prevention services is the lack of programs that include voluntary early identification of overburdened families where there is a significant risk of child abuse and neglect, and intensive, long-term support by trained home visitors (p. 7).

■ Communities rarely are included in planning and evaluating child welfare services (p. 8).

■ The practice of using different contractors within the same geographical area to provide family preservation, foster care and adoption services contributes to ongoing problems in the delivery of coordinated services (p. 8).

■ The financial problems of Lutheran Social Services and a history of increasing payments to contractors has undermined confidence in the system and drawn attention to the lack of accountability for how public dollars are spent by the contractors (p. 11).

■ A growing number of hard-to-place children awaiting adoption, difficulties in retaining foster parents and a disruptive bidding process raise questions about the stability of the system (p. 12).

■ Flaws in its design led SRS to abandon the use of managed care tools in child welfare, the element of the system changes initiated in 1996 that had drawn the most attention of national experts to the Kansas reform effort. By abandoning managed care, Kansas also stepped away from the nation's most ambitious attempt to create fiscal incentives that would benefit children in the system (pp. 14-19).

■ Current fiscal incentives appear to discourage permanency and thus contradict both federal mandates and state goals (p. 19).

# HOW ARE WE DOING?

We can use at least four frameworks to evaluate the current child welfare system in Kansas:

**A.** We can examine the system's success in meeting measurable performance standards for the safety, permanence and well-being of children and families.

**B.** We can assess how well the system is meeting widely accepted goals for systems change.

**C.** We can do a cost/benefit analysis that demonstrates how public dollars have been used and to what effect.

**D.** We can assess the stability and legitimacy of the child welfare system.

While we do not have sufficient data to fully use each of these evaluation frameworks, the following outlines a preliminary analysis.

## A. THE SYSTEM'S SUCCESS IN MEETING MEASURABLE PERFORMANCE STANDARDS FOR THE SAFETY, PERMANENCE AND WELL-BEING OF CHILDREN AND FAMILIES

One of the laudable aspects of the new child welfare system has been the effort to evaluate how well the system is working by introducing measurable performance standards. In the first four years of privatized child welfare managed care, SRS seemed to view the standards it created as goals to aim for and not as actual performance standards. There is certainly some justification for that view, since at the start of these reforms it was difficult to set realistic standards given the lack of good data about past performance. Now, with four years of experience, setting measurable standards seems possible. Setting such standards is certainly essential if Kansas is to truly implement an outcomes-based child welfare system.

How close did the child welfare system come to meeting SRS's set goals? Between 1996 and 1999, the success of service providers meeting performance standards has been mixed: standards for safety have been met, and those for permanence have largely not been met. In addition, Kansas has not adequately measured the well-being of children in the child welfare system.

### SAFETY

One set of standards seeks to evaluate the safety of children in the child welfare system. Since the start of privatized managed care, all providers have consistently met these standards. For example, one performance

standard requires that 98 percent of children not have reports of substantiated abuse/neglect while in foster care. In both 1998 and 1999, that standard was met for 99 percent of children.[1] A second safety standard requires that there be no substantiated reports of abuse/neglect for 80 percent of children within 12 months of returning home from foster care. That standard was met for 97 percent of children in 1998 and 96 percent in 1999 (Bell, p. 86).

It is, of course, important that safety standards are being met. Still, it is unclear whether this truly represents an improvement over the old system because the data that would allow us to make that comparison is not available.

## PERMANENCY

A second set of standards seeks to measure the system's success in finding permanent homes for children, either by family reunification or as the result of adoption or other long-term placement. These standards have consistently not been met. For example, one measure is that 40 percent of children return home or achieve another permanent placement within six months of referral. In 1998, this was true for 27 percent of children, and in 1999 for 26 percent (Bell, p. 83).

Permanency within six months may not be a desirable goal because, for some children and their families, more time may be needed to deal with the causes leading to placement in foster care; however, a second and perhaps more appropriate standard that 65 percent achieve permanency within 12 months also has never been met. In 1998, the goal was met for just 33 percent and in 1999 for 40 percent of children (Bell, p. 84).

The lack of success in meeting permanency standards is a significant weakness of the current system since it goes to the heart of why the old system needed radical changes. In the old system, too many children were spending too much time without the stability and sense of place that all children need to give them a healthy start in life. Unfortunately, the lack of permanency remains a problem today.

*The lack of success in meeting permanency standards is a significant weakness of the current system since it goes to the heart of why the old system needed radical changes.*

## WELL-BEING

While permanency is an important and desirable goal, it needs to be balanced by a concern for the overall welfare of children. It would be a mistake to force efforts to meet permanency goals at the expense of the right treatment or placement of the child.

Unfortunately, the state lacks significant performance standards for measuring the well-being of children in the system. We have very little information about some of the things all parents worry about for their own children, such as their mental, emotional and physical health; their educational progress; and the quality of their friendships.

The need for a more complete understanding of the well-being of children in the child welfare system is a growing concern to child welfare experts. One recent study suggests the following indicators could be used to measure well-being: [2]

- Change in frequency of positive child-caregiver interactions and/or attachment as measured by an appropriate instrument

- Children's cognitive, physical and mental functioning in relation to developmental milestones
- General physical health functioning as measured by an appropriate instrument
- Whether child is drug- and alcohol-free
- Whether caregiver is drug- and alcohol-free
- Safe and adequate housing
- Whether basic needs (food and clothing) are provided
- Academic performance of children in an appropriate school setting
- Whether child appropriately identifies with own ethnic or racial background
- Number of school suspensions/ expulsions for children.

While it may not be feasible to measure all of these indicators, Kansas needs to focus much greater attention on well-being outcomes if we want a more complete and accurate picture of how children in the child welfare system are faring.

## B. ASSESSING HOW WELL THE SYSTEM IS MEETING GENERALLY ACCEPTED GOALS FOR SYSTEMS CHANGE

Before the reforms initiated in 1996, most national and Kansas child welfare experts, policy-makers and advocates had reached a consensus about why the old system did not serve the needs of families and children.[3] The principal points of that agreement included:

- The system was crisis-oriented, with much of the focus on fixing pre-existing problems rather than attempting to prevent their occurrence.
- Multiple funding streams supported multiple programs that were not coordinated and often worked at cross-purposes.
- Payment systems, such as "fee-for-services," created fiscal incentives to keep children in foster care.
- Most programs focused on only one aspect of a person (for example, a drug addiction) or a member of a family (for example, a truant teenager), instead of dealing with the whole person and the whole family.
- Programs were not organically connected to the communities where their clients lived and worked.
- Programs were evaluated based on *process* measurements, such as units of service or number of clients seen, rather than on performance.

There was also agreement on the characteristics of supports and services that would serve families better. They included:

- Greater emphasis on supporting families in ways that would help prevent the need to remove children from birth families
- Services and supports that are community-based and community-driven
- Pooled, flexible funding to increase coordination and integration of services
- Fiscal incentives that will promote permanency

- A culturally sensitive focus on whole families and the full person
- Evaluation based on measurable outcomes.

To what extent has Kansas succeeded in incorporating these characteristics of a good system?

### 1. Is there a much greater emphasis on supporting families in ways that can help prevent the need to remove children from birth families?

Family support and prevention services in Kansas are underdeveloped. While in the past several years, the Governor and the Legislature have increased funding for programs such as Parents as Teachers and have appropriated first-time funding for Early Head Start, family support and prevention services remain seriously underfunded and, as importantly, uncoordinated.

#### Under-funded

Two of the most significant family support programs in Kansas are Parents as Teachers and Healthy Start. Both programs have received increases in funding in the past few years, but Kansas has far to go before those programs are available to all interested families. Also not available to many potential users are Early Head Start, Head Start, and the Four-Year-Old-At-Risk Program.

The most serious gap in the continuum of family support and prevention services is the lack of programs for overburdened families where there is a significant risk of child abuse and neglect. The programs that have been proven effective with high-risk families incorporate the following service features:

- Initiated prenatally or at birth
- Voluntary participation
- Intensive (at least once a week) and long-term (3-5 years)
- Comprehensive, focusing on parents, parent-child interactions and child development
- Emphasis on linking families to a range of community services
- Ongoing and intensive staff training and evaluation.

Several communities in Kansas have Healthy Families programs that incorporate these features. Those include programs run by Kansas Children's Service League in Hutchinson, Olathe, Topeka and Wichita; Heartland Healthy Families in Salina; and Family Connections of Riley County. Here again, in communities where Healthy Families programs exist the demand for services is greater than the supply, and in most areas of Kansas no Healthy Families or similar programs are available. Every year, 6,000 or more families with a newborn child could potentially benefit from participation in a Healthy Families program, but the existing programs combined can only serve a few hundred families.

*The most serious gap in the continuum of family support and prevention services is the lack of programs for overburdened families where there is a significant risk of child abuse and neglect.*

Within SRS itself, the one program that arguably is prevention-oriented is Family Preservation; however, it appears that in the initial years of privatization families at most risk of having a child placed in foster care were often not referred to family preservation. According to the Bell report, this was due to SRS staff concerns that because of the lack of intensity of or access to services,

"the current model of service delivery did not meet the needs of many families"(Bell, pp.134, 154-5). SRS has expanded the criteria for referring families to Family Preservation, which hopefully will result in more families receiving essential supports.

*As serious a problem as under-funding is the lack of statewide coordination of family support and prevention programs.*

### Uncoordinated

As serious a problem as under-funding is the lack of statewide coordination of family support and prevention programs. Existing programs are funded through several state agencies, including SRS, the Juvenile Justice Authority, the Department of Health and Environment, the Office of the Attorney General and the Department of Education. Very little statewide planning and coordination takes place among those programs. In the 2000 legislative session, a proposal from Representative David Adkins and others was advanced that was in part a response to the lack of planning and coordination; however, the proposal came too late in the session to receive adequate consideration and debate.

## 2. Are services and supports community-based and community-driven?

It can be argued that the Kansas child welfare system is community-based because local subcontractors of family preservation, foster care and adoption services provide many of the services. That response misses the point, because it only describes the *infrastructure* of programs that could make possible a community-based and -driven system. What it does not describe is the *process* that makes such a system a reality.

A community-based and -driven child welfare system is one that involves a cross section of community leaders and volunteers, from both the private and public sectors, who assess community needs, prioritize and plan responses to those needs, and provide ongoing evaluation of how well programs are working. That kind of community-driven planning and evaluation is not occurring in Kansas. The child welfare planning that does take place is primarily done by SRS Central Office and the lead contracting agencies.

## 3. Is pooled, flexible funding increasing coordination and integration of services?

Child welfare system reforms in Kansas have not led to significant increases in pooled funding. In fact, the primary "categorical" funding streams of the old system have been preserved.

Because SRS decided to divide the state into five regions for family preservation and foster care contracts and have one statewide contract for adoption, it is possible to have a different provider within a region for each of those services. This practice has perpetuated one of the most serious flaws of the old system and contributes to ongoing problems in the delivery of coordinated, seamless services.

The Bell report points to this problem when it notes that one of the unintended consequences of separate contracts for family preservation, foster care and adoption is that it makes concurrent planning for both reintegration and adoption difficult (Bell, p.25). The report goes on to underscore this issue, stating that "[t]he separation of foster

care and adoption functions in separate contracts and agencies creates challenges for early adoption and ongoing communication on foster children who appear bound for adoption" (Bell, p.157).

A similar observation can be made about the lack of coordination of family preservation and foster care services. While most children in families receiving family preservation services do not go into foster care (in part because, as noted above, the families most in need of family preservation are not referred for services), a few do. It would seem much more efficient and family-friendly to have those families that do have children who need foster care and perhaps adoption services continue with the provider who already knows the family's history and circumstances. This would make possible a degree of continuity of staff, which, under the current system, is impossible.

### 4. Is evaluation based on measurable outcomes?

We have already noted that a commendable aspect of the current system is the effort to use measurable performance standards and that it can be improved by adding measures of child well-being. However, the value of having performance standards is not in the standards themselves but in their use to reward good performance and correct problems. To this point, performance measures have been viewed by SRS as goals and not as standards, and it is not clear that they have been tied to accountability or consequences.

A public sector cost/benefit analysis seeks to answer this question: What benefits are both the public and targeted populations — in this case, the users or clients of the child welfare system — receiving in return for the tax dollars spent on providing child welfare services?

## C. A COST/BENEFIT ANALYSIS THAT DEMONSTRATES HOW PUBLIC DOLLARS HAVE BEEN USED AND TO WHAT EFFECT

It is not possible to perform a true cost/benefit analysis of the child welfare system because we lack some of the needed data. First, a cost/benefit analysis requires data about the benefits provided by service providers. As discussed earlier, in one very important area – the well-being of children in the system – there is little data.

Second, a cost/benefit analysis requires reliable data that illuminate how the private contractors are using funds. To date, that data are not available to the public. Because it is not available, important questions remain unanswered, including:

- What portion of funds paid to the contractors is used for services directly benefiting children and families?
- What specific services are children and families receiving?
- What portion of those funds is used for administrative costs, including salaries of administrators and managers, information systems and overhead expenses?
- What portion of child welfare costs was used for direct services to children, and what portion was used for administrative costs prior to privatization?
- How much duplication and redundancy does the current system contain as the direct result of contracting with several regional providers — each with their own information system, manage-

ment and administrative structure, overhead costs, staff recruitment, and foster and adoptive parent recruitment (Bell, pp.25, 138) and training efforts?

- What has been the cost due to the ongoing confusion in the respective roles of contractor staff and SRS staff? (Bell, pp.146-7)

In January 2001, the Legislative Division of Post Audit released a performance audit report on adoption and foster care contracts that touches on some of these questions.[4]

One of the audit findings is that among 10 sample agencies chosen for review, six of the agencies spent a smaller percentage of their total budgets on administrative costs after privatization than they did before privatization.

It seems reasonable that changes in administrative costs may not mirror the substantial overall budget expansion that has occurred among the four contracting agencies (according to the audit, total payments from SRS to the four contractors grew from $12,319,607 in the last fiscal year before privatization to $110,173,208 in the agencies' most recent fiscal year, an almost 900 percent increase).

However, the audit did not compare contractor administrative costs to SRS administrative costs before privatization. Furthermore, questions about the reliability of the information have been raised by Kansas Children's Service League in a letter appended to the audit. KCSL is the only contractor reporting that a larger percentage of total costs were spent on administration. In the letter, KCSL expresses a lack of confidence in the administrative costs:

"Specifically, we believe the definition of administrative costs may be inconsistent among contractors as well as between comparative periods. Administrative costs required to support services at KCSL prior to privatization are not comparable to those required subsequent to privatization. For example, reporting requirements and our management information needs are vastly different" (Audit, pp. 36-8).

The audit also found that SRS has adequate procedures to monitor the financial status of contractors and to monitor their services. The audit's judgment on the adequacy of monitoring of services seems based on three procedures: 1) monthly performance reports by the contractors; 2) monthly case reviews; and 3) monthly client satisfaction survey. (Audit, pp. 22-3). However, reliance on these procedures is problematic for a number of reasons:

### Monthly performance reports by the contractors

The audit assumes the performance measures are adequate and that there are consequences for not meeting performance standards. Yet as discussed earlier, the existing performance measures lack any significant measures of child well-being and have been treated as goals and not as standards. Moreover, the audit assumes that the data reported by contractors is accurate, although auditors did not attempt to validate the quality of contractor data reports.

### Monthly case reviews

Monthly case reviews can be a useful way to check the accuracy of monthly performance reports. Yet the audit reports that case reviews which were to begin in July 2000 were not started until November 2000.

### Monthly client satisfaction surveys

The audit states that the delays in case reads (and in filing monthly performance reports by one of the contractors) "weren't large problems because SRS had other information—

like client satisfaction surveys—to evaluate how well its contractors were providing services" (page 23). This is a curious assertion, since a reading of the Bell report would give most readers pause before accepting the results of the client satisfaction surveys:

"Because information on the number of surveys mailed per month to clients is not reported by providers, it is not possible to calculate the response rate. However, the response rate is thought to be low given the small numbers of completed surveys received each month by KU. This creates questions about representativeness, and findings should be viewed with caution." (Bell page 91. This is in reference to foster care. There is almost identical language on page 122 of the Bell report in reference to adoption services).

## D. AN ASSESSMENT OF THE STABILITY AND LEGITIMACY OF THE CHILD WELFARE SYSTEM

Reforms in any publicly funded systems as large and costly as child welfare can only be sustained if policy-makers, the public and the media continue to have confidence in the legitimacy of the reforms and the stability of the new system.

### 1. Fragile legitimacy

In 2000, that legitimacy seemed fragile, as shown by the seemingly skeptical questions posed by some legislators, by the legislative leadership's decision to order an audit of the adoption system and by editorial comments in state newspapers.[5] One development underscoring that fragility was the financial problems experienced by Lutheran Social Services.

In the summer of 2000, LSS let it be known that they would either be unable to fully pay many of their subcontractors or would have to consider declaring bankruptcy. Coming after four years of LSS leading what state officials had hailed as a national model for reform of adoption services and after SRS assurances to legislators in the spring of 2000 that LSS's fiscal problems had been resolved, the revelation of LSS's fiscal crisis did little to bolster confidence in the system.

An early reaction of state officials was to argue that additional payments to LSS would send the wrong signals to other contractors. In fact, this was only one of several times the state had faced the need to infuse resources beyond the original contracted amounts, a need that was previously met under the rubric of "risk share." Risk share "was the safety net the state used to reimburse contractors for legitimate, unforeseen and unknown costs due to lack of data."[6] In the initial four years of privatization, foster care contractors received $8.4 million for children outside the case rate and $96.7 million for other risk share payments, in addition to case rate payments of $178.7 million. In that period, the adoption contractor received $6.97 million for children outside the case rate and $24.4 million for other risk share payments, in addition to $37.4 million for case rate payments.[7]

This history of increasing payments to contractors has undermined the legitimacy of the system by drawing attention to how little accountability there is for how public dollars are being spent by the private contractors. Before privatization, an inquiring legislator, and especially an inquiring legislator who was a member of the Senate Ways and Means or of the House Appropriations committees, could demand and often get

answers about SRS expenditures. Those answers are not forthcoming from the current contractors.

A second threat to the legitimacy of the system comes from a lack of confidence in the system's ability to make, on its own initiative, significant changes. One reason for this lack of confidence is a weakness in the system's ability to assess the need for

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changes. In the classic continuous quality improvement (CQI) model, a feedback cycle pushes changes. The cycle begins with data collection, which in turn informs the process of planning and implementing changes. These changes are then evaluated (data collection), as the cycle begins again.

The CQI model is driven by availability of good data, and the child welfare system has been notorious for its lack of reliable data. According to the Bell report, this is a continuing problem (Bell, pp. iii, 1, 32-3, 154), due in large part to the lack of:

- comparable data collection procedures among SRS Area Offices
- information on the characteristics of children that may explain regional differences noted in aggregate data
- and information on the type and frequency of services provided.

### 2. Underlying instability

Other factors suggest that a worrisome, underlying instability haunts the child welfare system. One concern is the pressure building up in the adoption system, which seems headed for overload. As the Bell report points out, there is a growing number of children awaiting adoption who are very difficult to place because of their age and/or because of behavior (Bell, pp. 26, 112-3, 153, 156; see also Secretary Schalansky's Sept. 26, 2000, testimony cited in endnote #6). This was confirmed by the January 2001 Legislative Division of Post Audit report. The audit found that while the number of finalized adoptions increased since privatization, the percentage of children adopted has dropped from 33 percent to 26 percent because the number of open adoption cases has outpaced the number of finalized adoptions (Audit, pp. 7-10).

A second concern is the retention of foster parents. The Bell report found that many foster and adoptive parents "seriously" considered leaving their programs because of the lack of clear information on services– such as respite care – and on reimbursement policies and because there was not a proper recognition of the time and personal resources they put into parenting (Bell, p.139). The report states that "[f]oster parents and adoptive parents note a wide divergence between the message communicated by public relations campaigns being undertaken in the state, and the day-to-day realities of providing for foster and adoptive children" (Bell, p.138). The Bell report also notes that a national survey found similar issues across the country and that Kansas foster parents had praise for the practices of some of the contractors and subcontractors (Bell, p.139).

The discrepancy between public relations campaign messages and the reality of their day-to-day experience as foster and adoptive parents parallels a theme articulated by

children in foster care, parents of children in foster care, and social workers attending the October 2000 Child Welfare Summit organized by Kansas Action for Children. In their breakout discussions, those groups expressed frustration and anger with what they perceive as a lack of honesty on the part of others in the system.[8] Children in foster care asked for "NO promises" and said that they would "rather have professionals not promise anything than have them promise something and then break the promise." Social workers asked that officials "tell the truth" about problems in the child welfare system to the public, legislators, the governor, children and families, and front-line workers. And parents of children in care asked for "honesty" and "accountability."

A third concern is the bidding process itself. In a process that began in late 1999 and ended during the spring of 2000, SRS requested bids and negotiated new contracts for family preservation, foster care and adoption services for the next three years. In the end, SRS made significant changes in its choice of private contractors. In family preservation, three contracts changed, in foster care two contracts changed, and the statewide adoption contract changed as well.

An open bidding process is inherent in the competitive, privatized model Kansas has adopted. Such a model has the advantage of a potential for more creative and dynamic approaches to providing services to children and families. It is important to recognize, however, that the process also has potential negative outcomes, including disruptions in the continuity of services to children who, more than anything, need increased stability in their lives.

In effect, this is another kind of permanency issue. By requesting bids for new contracts every few years, Kansas is institutionalizing a lack of system permanency. This creates greater uncertainty for children and families affected by changes in service providers and the loss of relationships with social workers and counselors. It can also create uncertainty about continued employment for agency staff. Is it in the best interest of children in the system to experience the consequences of these transitions?

*It seems likely the competition that is inherent in the bidding process leads to less collaboration, less sharing of knowledge and a greater lack of trust between agencies.*

Another issue related to the bidding process is the impact it may have on working relationships between contractors and subcontractors. It seems likely the competition that is inherent in the process leads to less collaboration, less sharing of knowledge and a greater lack of trust between agencies.

A final concern is the long-term financial stability of the child welfare system. Part of that concern is related to the history of additional payments to contractors, discussed in the previous section of this report. In light of that history, what confidence can policy-makers have in the adequacy of current funding levels?

A second financial issue is the significant dependence on the Temporary Assistance to Needy Families (TANF) block grant as a funding source for child welfare expenditures. No other state is as dependent on TANF dollars for child welfare as is Kansas, and there is no guarantee that the federal government will continue to allow such use when Congress re-authorizes the block grant in 2002.

# III. HOW DID WE GET HERE?

## A. CONSENSUS ON THE NEED FOR CHANGE

In the early 1990s, Kansas legislators, top SRS officials, child advocates, child welfare experts and many service providers agreed that the child welfare system was in crisis. All agreed that persistent and seemingly intractable problems included continuing growth in the number of children in foster care and awaiting adoptions, escalating costs, and a lack of stability and permanence for children in the system. Among these groups, a broad consensus also existed about the key features that were needed if programs and supports for children and families were to be both effective and efficient. That consensus had been shaped by practical experience and by dozens of national and state studies of child welfare systems.

As discussed in Section II.b., the old system did not serve families and children well because of its crisis orientation, multiple funding streams, fiscal incentives that discouraged permanency, programs that did not treat families and children holistically and were not community-based, and evaluation too heavily based on process measures. Conversely, a new system needed a prevention and community orientation, pooled funding, fiscal incentives for permanency, a focus on the whole family and measurable outcomes.

Of course, it is possible to propose very different solutions for developing and implementing a child welfare system that seeks to overcome the problems identified in the old system and incorporates the features of a better functioning system. One of the interesting questions about Kansas is the extent to which some of the acknowledged improvements of the past few years could have been accomplished without privatizing as much of the system. That some of those improvements were possible has been documented in a study of the impact of adoption reforms that occurred before privatization.[9]

Reforms in the adoption system were initiated in 1995 as the result of a Kellogg Foundation grant to Kansas Families for Kids. KFFK focused statewide attention and action on the backlog of children in Kansas waiting for adoption. By bringing together public and private agencies for planning and coordination, organizing public awareness and recruitment efforts and developing a computerized registry, KFFK helped to significantly increase the percentage of children placed in adoptive homes. In

their analysis, McDonald and colleagues found that those improvements were maintained in the first couple years of privatized managed care and offered the following observation:

"Under both the KFFK initiative and the privatized, managed care system, children freed for adoption are about twice as likely to be placed in an adoptive home as they were under the previously operated state system. What is perhaps most interesting is that the same results were achieved under a reform initiative that provided some additional resources while emphasizing aggressive service provision within the existing organizational structure as have been achieved under a more radical reform of service delivery structure and management."[10]

## B. PRIVATIZED MANAGED CARE

Of all the possible roads to reform, Kansas' choice was to both privatize and use some of the tools of managed care.

While in 1996 and 1997 much of the state and national media attention was focused on the privatization of child welfare services, what truly distinguished Kansas from the rest of the nation was not privatization. The bold and exciting aspect of the Kansas experiment was the sweeping attempt to develop a managed care approach to child welfare. No other state had attempted to use managed care in such a radical fashion, and the eyes of the nation's child welfare experts were on Kansas. In the words of Alfred Kahn, a leading authority on child welfare, in the early days of privatization "Kansas was everybody's poster child for managed care." [11]

Privatization can obviously be accomplished without managed care, and managed care can be accomplished without privatization. Much of the child welfare system in Kansas was privatized before 1996; in fact most of the nonprofit service providers who acquired the initial managed care contracts had a long history of providing many of the same services on a fee-for-service basis.

To the extent that SRS was responding to a legislative directive when it initiated privatized managed care, the directive was to examine the potential for further privatization of government services, not to examine the potential for managed care. During the 1995 legislative session, the House Appropriations Subcommittee responsible for the SRS budget recommended the privatization of foster care and requested that SRS develop a plan for presentation to the 1996 Legislature. The subcommittee report also noted its support for the efforts to privatize adoption services and went on to state that the "long-term benefits to both children in the state and to the taxpayers in terms of reduced costs are compelling reasons to move with all due speed towards privatization."[12]

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There was little, if any, legislative discussion about the pros and cons of managed care in 1995 or subsequently.[13]

What is child welfare managed care? It is useful to use the example of health care because many persons are acquainted with

a form of managed care as participants in a health maintenance organization (HMO). HMOs grew out of efforts to reduce continuing and significant increases in costs of health care. In its simplest form, an HMO agrees to provide a range of health care

*For a managed care system, the lack of a prevention strategy comes close to being a fatal flaw.*

services in return for a fixed per person payment, sometimes called a "capitated" payment. To succeed, the HMO needs to "manage care" by using cost containment measures such as entering into agreements with physicians, laboratories and others who will provide cost-certain services; by restricting the number of and/or the options for some services; and by requiring co-payments.

Child welfare managed care uses many of the same tools to bring greater efficiency and effectiveness to its delivery of services to children and families. Between 1996 and 2000, Kansas used three strategies to implement managed care:

- Kansas chose to use the private sector to deliver family preservation, foster care and adoption services. To do so, SRS divided the state into five regions for family preservation and foster care services and decided on one statewide contract for adoption.
- Kansas chose to use performance-based contracting to define SRS's relationship with private providers. Providers were to be given flexibility in developing their service model and delivering services but would be held accountable for meeting clearly defined performance measures.
- Kansas chose to use a per-child and per-family capitated rate or case rate that was intended to cover the cost of care for the child or the family for the duration of the time they were in foster care, adoption or family preservation. By implementing a capitated rate, SRS was attempting to align fiscal incentives with the goal of permanency.

## C. SYSTEMIC PROBLEMS

In a 1998 report, Kansas Action for Children identified a number of the early concerns and mistaken assumptions in the transition to privatized managed care. They included: [14]

- The lack of an inclusive planning process involving all the parties with roles in the system
- Hurried implementation and no attempt to experiment by using pilot projects
- Lack of historical data on costs that could guide the development of case rates
- Confusion about public sector, private sector and judicial roles
- Lack of a pool of experienced child welfare staff that could be hired by the contractors.

However, deeper problems existed than the ones growing out of the lack of an inclusive process and mistaken assumptions. There was also evidence of problems rooted in some of the basic features of the design of the managed care system.

Chief among them was the lack of any real attention to prevention. For a managed care system, the lack of a prevention strategy comes close to being a fatal flaw, a point that can be best illustrated by returning to the example of managed care in health services. Consider a hypothetical HMO with 100 subscribers, each paying $100 per year. Among those 100 subscribers, perhaps 50 are healthy, 30 have some health problems and 20 are quite ill and require a lot of attention. Much of the HMO's $10,000 yearly income will go to provide services to the 20 who have serious problems. Because the HMO's "contract" with its subscribers is that it will provide health care for each of them, it has a strong incentive to put as many resources as possible into preventive measures that will keep the other subscribers healthy. Not investing in prevention puts the HMO at real risk of financial failure.

The Kansas experiment with child welfare managed care did not attempt to spread the risk across "healthy" and "unhealthy" children and families. All of the children and many of the families served by the system have significant and costly problems, and there is no reason to think the demand for services and escalating costs will significantly decrease until more resources are focused on preventing or reducing the problems.

The lack of a cost reducing investment in prevention comes on top of a cost issue faced by any child welfare managed care system, limitations on its ability to contain costs because of conditions outside its control and because the number of services it provides are in part determined by other factors. Child welfare researcher Tracy Field notes that:

- Children come into the system because of social problems such as poverty and poor education that the child welfare system is incapable of dealing with by itself.
- Judges may disagree with child welfare workers on the number and types of services needed.[15]

Finally, managed care depends on the ability to use reliable data as the basis for evaluation and efficient resource allocation. As noted above in Section II, d.1, deficiencies in child welfare data are a long-standing and continuing problem.

# WHERE DO WE SEEM TO BE GOING?

## ABANDONING MANAGED CARE

Changes in contractors in 2000 signaled another transition in the Kansas child welfare system, but the direction of the transition is not clear. What is clear is that SRS has largely abandoned the attempt to use managed care. That decision was not surprising since managed care as envisioned at the beginning of this reform effort had failed. That point is made by child welfare expert Alfred Kahn, quoted earlier as stating that "Kansas was everybody's poster boy for managed care." Kahn went on to say: "And they have nothing to show for it yet that anyone should copy."[16]

*By abandoning managed care, Kansas also stepped back from the nation's most ambitious attempt to create financial incentives that would benefit the children in the system. By moving to a per- child, per- month payment system, those incentives have been removed.*

SRS apparently abandoned managed care in the midst of negotiating the contracts that were to begin in 2000. The agency described to a legislative oversight committee its decision to move away from a case rate in foster care in this way:

"The financial review process created concerns regarding the viability of the case rate as the payment system for foster care. The primary concern was that the contractors did not have adequate control over when children returned home or moved to another permanency to manage their finances in such a payment system. Specifically, courts, SRS and others played a significant role in how soon a child could achieve their case plan goal. This left the contractors in a situation where their financial risk could not be appropriately balanced with their case responsibility. To resolve this concern, the basis for payment was modified to a per-child, per-month system. This new system will still require contractors to manage the placement of children and provision of services in an efficient manner, but does not place them at risk for children who do not move through the system at a pre-planned pace." [17]

This change from a case rate to a per-child, per-month payment system is notable for

two reasons. First, since this decision came after proposals had been received and in the midst of negotiation with the providers who submitted bids, it raises a question about the possibility that additional bids would have been submitted had the request for proposals included this change. Any service provider considering a proposal would have known from experience or from reading the newspapers that the case rates during the period of the initial contracts were not sufficient to cover actual costs. Moving to a per-child, per-month payment system significantly reduces the risks to providers and could have prompted more proposals, had a decision to change the payment system been made earlier.

Second, and most important, it is an indirect acknowledgment that a fundamental feature of Kansas's child welfare experiment had failed. By abandoning managed care, Kansas also stepped back from the nation's most ambitious attempt to create financial incentives that would benefit the children in the system. The old system created fiscal incentives to keep children in the system because it was basically an open-ended, fee-for-service system. Providers could expect to almost indefinitely receive payments and thus had little incentive to find ways to reunite children with their families.

While, as pointed out elsewhere in this report, the form of managed care implemented in Kansas had significant problems, it did have the virtue of creating financial incentives to reintegrate children. By moving to a per-child, per-month payment system, those incentives have been removed. In fact, under the current payment system there may again be an incentive to keep children in the system, since if a child comes back to foster care the contractor is responsible for providing services without receiving additional payment.

# WHERE SHOULD WE BE GOING?

How can we move from where we are today to a child welfare system that Kansas can be proud of? Kansas Action for Children believes that we need to:

- Increase accountability by requiring more information about how contractors are using public funds and about the well-being of children in the system.
- Stem the flow of children into foster care and adoption by reforming and improving the front end of the system.
- Study and test the potential benefits of contracting with one lead agency for all services in a given geographic area.
- Study and test the creation of fiscal incentives that reward contractors for good performance.

## A. WE NEED BETTER DATA TO GUIDE DECISIONS ABOUT HOW TO IMPROVE THE SYSTEM. IN PARTICULAR, WE NEED FISCAL DATA ABOUT HOW CONTRACTORS ARE USING FUNDS.

Policy-makers and interested citizens need better information about how contractors and subcontractors are spending public resources and about the results they are obtaining. In effect, private contractors need to be subject to the same level of scrutiny as are public agencies, so that questions such as the ones outlined in Section II.c. can be answered:

- What portion of funds paid to the contractors is used for services directly benefiting children and families?
- What services are children and families receiving?
- What portion of those funds is used for administrative costs, including salaries of administrators and managers; information systems; and overhead expenses?
- What portion of child welfare costs was used for direct services to children, and what portion was used for administrative costs before privatization?
- How much duplication and redundancy does the current system contain as the direct result of contracting with several regional providers — each with their own information system, management and administrative structure, overhead costs, staff recruitment, and foster and adoptive parent recruitment and training efforts?

At a minimum, contractors should annually account for SRS contract payments by reporting all expenditures, including costs for

administrative salaries, administrative expenditures, staff salaries, benefits, direct services (detailing the kind of services, including mental health services), foster care parent payments, and staff and foster care parent training. A model (which would need to be adapted) for such reports is the *Nursing Facility Financial and Statistical Report* (Form MS-2004) that nursing care facilities are required to submit annually to the Kansas Department of Aging.

## B. WE NEED BETTER DATA ABOUT THE WELL-BEING OF CHILDREN IN THE SYSTEM.

SRS and the contractors often say that we have more data about the child welfare system than we ever had before privatization. It is certainly the case that contractors have to report data on their success in meeting performance standards for safety and permanence. However, the state lacks significant performance standards for measuring the well-being of children in the system. As we noted in Section II.a.3., while permanence is an important and desirable goal, it needs to be balanced by a concern for the overall welfare of children.

We understand that SRS is working with the University of Kansas School of Social Welfare to develop ways to measure four areas of child and family well-being:

- Health – physical, dental, mental
- Educational well-being – attendance, academic performance
- Social and emotional well-being – a family behavioral focus on both positive and risk behavior
- Family well-being – parent/child visitation, sibling visitation.

This is a step in the right direction, and we hope that in the near future the proposed methodology for measuring well-being is available for public review and comment.

## C. WE NEED TO IMPLEMENT PROGRAMS THAT WILL HELP STEM THE FLOW OF CHILDREN INTO THE FOSTER CARE AND ADOPTION SYSTEMS.

Until we have a continuum of family support and prevention programs that can serve low and high risk families, the child welfare system will continue to feel pressures from having thousands of children in out-of-home placements.

In Kansas, that continuum includes the Healthy Start Home Visitors Program, Parents as Teachers, Early Head Start, Head Start, and the Four-Year-Old-At-Risk program. For the past few years, KAC has advocated for increased funding for Healthy Start and Parents as Teachers, so those programs are available to all interested families. We have made steady progress toward that goal, but some communities still lack those programs or have waiting lists. We need to continue increasing funding for Healthy Start and Parents as Teachers, as well as for the other programs that provide family support.

But other significant gaps in the continuum of family support and prevention services persist. One serious gap is the lack of programs such as Healthy Families (see Section II.b.1.) that target overburdened families where there is a significant risk of child abuse and neglect. Every year, 6,000 or more families with a newborn child could potentially benefit from participation in a Healthy Families program, but the existing programs combined can only serve a few

hundred families. Kansas needs a reliable funding stream to support existing and new programs similar to Healthy Families.

A second gap is the need to transform child protective services (CPS), so that it not only has the capacity to protect children who need to be removed from the home but also has the capacity to provide services to families at risk so that children can be safe at home.

Several states are attempting CPS reforms that seek to both protect children and support families. Some of the elements of these efforts include:

### Multi-Tiered Response

In a multi-tiered response system, reports of abuse and neglect are evaluated according to the severity of the threat to the child. Cases where there seems to be sexual abuse and/or serious physical abuse and neglect are referred for a traditional investigation and possible removal of the child. Cases where there seems to be no immediate threat to the child receive a family assessment and are referred to appropriate services.

### Family Assessment

A family assessment is an important component of these reforms. In the traditional CPS investigation, the caseworker's primary responsibility is to obtain the facts that can be the basis for a court's finding of abuse or neglect. The role of the caseworker doing a family assessment is quite different, since the emphasis is on determining if services can be provided that will allow the child to remain safe at home.

### Community-Based Staff and Community Collaborations

In these reforms, CPS staff are often placed in communities with significant numbers of abuse and neglect reports. CPS staff also involve community organizations in collaborative efforts. In some cases, teams made up of CPS staff and staff from other public and private agencies work with the family to develop a plan and provide supports and services.

KAC recommends that - building on these reform efforts - a plan be developed and piloted in two or three Kansas communities. Such a plan could make use of current SRS staff and could include contracting with community-based service providers.

It is important to note that as serious a problem as under-funding is the lack of statewide coordination of family support and prevention programs. Existing programs are funded through several state agencies, including SRS, Juvenile Justice Authority, Department of Health and Environment, Office of the Attorney General and the Department of Education. Very little statewide planning and coordination takes place among those programs. In the 2000 legislative session, a proposal from Representative David Adkins and others was advanced that was in part a response to the lack of planning and coordination; however, the proposal came too late in the session to receive adequate consideration and debate. That discussion still needs to occur.

## D. WE NEED TO EXAMINE THE WISDOM OF CONTRACTING WITH MORE THAN ONE AGENCY IN A GIVEN REGION.

We noted in Section II.3. that the Bell report points to this problem when it underscores that one of the unintended consequences of separate contracts for foster care and adoption is that it makes concurrent planning for both reintegration and adoption difficult.

Research shows that lack of stability is more related to children's behavioral and emotional problems than is maltreatment.[18] Yet we have a system that promotes instability because children are the responsibility of different contractors and multiple staff as they move from family preservation to foster care to adoption. This problem is compounded when contractors change every several years and when there is significant staff turnover. In the future, SRS should consider piloting a contract with one lead agency for all services in a given geographical area.

## E. KANSAS ACTION FOR CHILDREN BELIEVES IT IS IMPORTANT TO EXAMINE THE POTENTIAL FOR CREATING FINANCIAL INCENTIVES THAT REWARD CONTRACTORS FOR THEIR SUCCESS IN ACHIEVING PERMANENCE AND WELL-BEING.

When in the new round of child welfare contracts SRS abandoned the capitated managed care system, Kansas stepped back from the nation's most ambitious attempt to create incentives that had the potential to benefit the children in the system.

Before managed care, the system had incentives to keep children in the foster care system because it was an open-ended, fee-for-service system. Providers could expect to almost indefinitely receive payments and thus had no financial incentive to find ways to reunite children with their families.

Although the first attempt at child welfare managed care did not work, it would be a mistake to give up on creating incentives that reward permanence and well-being. It may still be possible to create a managed care system that provides the right kind of incentives, if the design includes:

- A capitated rate that is based on reliable cost data
- A population that includes all children and families at risk of abuse and neglect, not just those in need of crisis intervention
- A focus on preventing problems as much as fixing problems, and on investing in prevention any "savings" resulting from more efficient and effective ways to deliver intervention programs
- A single contracting agency for family preservation, foster care and adoption for each defined geographical area
- A high degree of community involvement in defining the needs, designing how to best meet those needs and evaluating progress.

Whether under managed care or not, KAC believes that it is very important to develop models of appropriate incentives. Those models should be based on discussions with all interested parties and piloted in select communities before successful efforts are implemented statewide.

# Endnotes

[1] James Bell Associates, April 28, 2000, *External Evaluation of the Kansas Child Welfare System Year End Report: January-December 1999*, p. 79, Arlington, Va. All subsequent references to this report are noted in the text.

[2] "Assessing outcomes in child welfare." pp. 38-39.

[3] Among many others, see SRS Commission on Children and Family Services, "Service Delivery System Transition Plan," Section 1, page 3, undated publication, State of Kansas; Lisbeth Schorr, 1988, *Within Our Reach*, New York: Doubleday; Research and Policy Committee for Economic Development, Committee for Economic Development, 1991, *The Unfinished Agenda: A New Vision for Child Development and Education*, New York; Wynn, Joan, Joan Costello, Robert Halpern and Harold Richman, 1994, *Children, Families, and Communities: A New Approach to Social Services*, The Chapin Hall Center for Children at the University of Chicago; Melaville, Atelia I., Martin J. Blank, and Gelareh Asayesh, 1993, *Together We Can: A Guide for Crafting a Profamily System of Education and Social Services*, U.S. Department of Education.

[4] Kansas Legislative Division of Post Audit, *The State's Adoption and Foster Care Contracts: Reviewing Selected Financial and Service Issues*, January 2001. All subsequent references to this report are noted in the text.

[5] *Wichita Eagle*, Aug. 12, 2000. *Lawrence Journal-World*, Sept. 5, 2000.

[6] Department of Social and Rehabilitation Services (SRS), Schalansky, Secretary Janet, Sept. 26, 2000, "Recent Events in the Adoption System and Overall State of the Child Welfare System," testimony before SRS Transition Oversight and Children's Issues Committees.

[7] SRS, Schalansky, Secretary Janet, Aug. 10, 2000, "Foster Care and Adoption Contract Payment History," SRS handout at the SRS Oversight Transition Committee.

[8] Kansas Action for Children, January 2001. "Child Welfare Summit: Kansas accomplishments, gaps and recommendations." Copies can be obtained from Kansas Action for Children.

[9] McDonald, Thomas P., Marianne Berry, Ellen Patterson, and David Scott, 2000, "Adoption trends in Kansas: Managing outcomes or managing care?" *Children and Youth Services Review*, Vol. 22, No. 2, pp. 161-174,

[10] Ibid. p. 173.

[11] *The Christian Science Monitor*, Aug. 3, 2000.

[12] Kansas House Subcommittee Report on Senate Bills 236 & 343, FY 1995 and FY 1996, Expenditures for the Department of Social and Rehabilitation Services, p. 16.

[13] The background to this legislative interest is examined in more detail in Kansas Action for Children's *Privatization of Child Welfare Services in Kansas: A Child Advocacy Perspective*, 1998.

[14] Ibid.

[15] Institute for Human Services Management, Jan. 18, 1996, "Managed care and child welfare: Are they compatible?" Bethesda, MD.

[16] *The Christian Science Monitor*, Aug. 3, 2000.

[17] Criswell, Arthurine, Aug. 10, 2000, "Foster Care Contracts," testimony before the SRS Transition Oversight Committee. Much the same language is used in SRS's explanation for dropping the case rate for adoptions.

[18] Berry, Marianne, Oct. 6, 2000, "Evidence-based best practices in foster care," presented at the Kansas Child Welfare Summit, Salina, Kan.

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